

of finding a Probation *in re iam antiqua*; and if this had not been Kinkels design, what hindered him all the time that judge Ker his brother in Law was in Power, and one of the Judges of the Nation, and an eminent Lawyer, he did not then raise a reduction, when the matter was recent, and he could not pretend he was *non volens agere*. 3^{to}. If this Disposition were reduced, it would involve your Petitioner in upwards of 60000 Merks, and although he had several pursuits against him, both for relief of Cautionries, and other Debts, against which, he defended most litigiously, and wherein there were four several Suspensions discussed, and several grounds of Compensation founded upon; Yet never a word of this Debt, which certainly he would have done, if there had been any just ground therefore, both considering the greatness of the Summ, and Kinkels bad circumstances, his Estate being totally ruined by Debt these many years bygone: Likeas after your Petitioner had prevailed by obtaining Decrets on the Lords; He disposed several others of his lands in my favor, in satisfaction of the summs discerned; As also your Petitioner being a *bona fide* and literent Elcheat, for his further security of the *new conquest*, did obtain Decrets of General & special declarator against him after most litigious debates, & during all the time of the dependence of these processes, there was never so much as mention made of this Reduction. 4^{to}. If the point of prescription were to be discuss before the Lords of Session, before whom the Reduction is depending. It is conceived, that there could be no pretence why Prescription should not run, during the time Kinkel was confined to the Town and Suburbs of Edinburgh, where he had Liberty to pals and repals for many Years, So that he being resident in Edinburgh, and never being so much as denounced for not appearing, cannot be presumed that he was in the Terms of an Intercommuning, but might certainly have raised a Sumonds, and given a Citation, which would undoubtedly have slooped Prescription. And in the year 1684, your Petitioner having pursued Kinkel and his Tenants before the Stewart of the Stewartry of St. Andrews, he did then Advocate the cause, & did many other Acts in the years of his pretended Intercommuning, So that in some Cases, it seems he was *Volens agere*, but in this Case he designed not to be, but by his own dilist, has undoubtedly designed to take advantage of your Petitioner. And it is impossible, That in Law or Justice, there can be Deduction of years, that he was under the said Imprisonment, Confinement, or willful and designed lurking up and down the Countrie, occasioned chiefly by Captions, for Civil Debts, not yet payed, nor removed; And under which Captions Kinkel yet lyes, during which time nothing could hinder him to have raised a Process of Reduction against your Petitioner. By all which it is evident, That he has had a design against your Petitioner, to bring him to unnecessary Trouble, Charges and Expencels

In Respect of all which, It is Humbly craved, That my Lord Commissioner his Grace, and Honourable Estates of Parliament, would be pleased altogether to Reject the said Petition, at least the last part thereof, relating to Prescription, wherein your Petitioner is so much concerned, and the samen relating to a Process depending before the Lords of Session; Or otherwayes to allow me to be heard before any such general Act pass in Favours of Kinkel, In Case your Grace, and Honourable Estates of Parliament should think fit, to take the samen to your Considerations.

THE
PRACTICE
OF
PIETIE.

Directing a Christian
how to walk that he
may please God.

Amplified by the Author

Pietie hath the promise
1. Tim. 4.8.



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